

Expedited Processing
Application No. 10/651,824
Amd. Dated:
Reply to Final Office Action mailed August 28, 2006

REMARKS/ARGUMENTS

Applicant hereby responds to the office action dated August 28, 2006. Both the "Final" and "Non-Final" boxes were checked on the cover sheet for this Office Action. However, the body of the Office Action contains no indication of finality and PAIR indicates that this Office Action is non-final. Moreover, this is the first office action issued after filing of an amendment after final with an accompanying Request for Continuing Examination (RCE) and no reason is seen why this Office Action should be final. Accordingly, Applicant is proceeding on the understanding that this Office Action is non-final. The Examiner is requested to notify Applicant's undersigned counsel if this understanding is incorrect.

In the Office Action claims 1-20 were rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 5,693,067 (Purdy). The Examiner contended that Purdy teaches a cover that fully blocks blood flow and a penetrating member. Applicant continues to respectfully disagree with the Examiner's interpretation of Purdy. However, in an effort to advance prosecution of this application, Applicant has hereby amended independent claim 1 to recite that the frame of the device is generally cylindrical when in its expanded configuration. Examples of embodiments wherein the frame is generally cylindrical includes those shown in Figures 5, 5A, 5B, 11, 13A and 13. Additionally, dependent claim 7 has been amended to be consistent with amended claim 1 and dependent claim 16 has been amended to correct a typographical error. No new matter has been added by these amendments.

Purdy does not describe or suggest any lumen occluding device having a substantially cylindrical frame. Thus, independent claim 1 as presently amended is clearly distinguishable over Purdy.

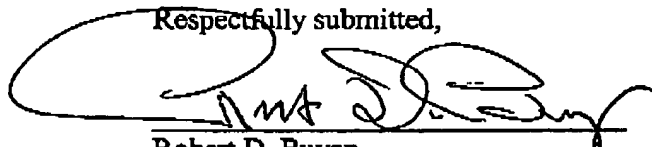
Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. No fee is seen to be due in connection with this filing. However, in the event that any fee is properly deemed to be due, the Commissioner is hereby

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authorized to deduct such fee from Deposit Account No. 50-0878. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (949) 450-1750.

Respectfully submitted,



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